

From: Peter Desnoyers
To: Microsoft ATR
Date: 1/24/02 2:11pm
Subject: Microsoft Settlement

As the deadline for public comments is rapidly approaching, I would like to submit my comments to the Department for consideration.

I am a software engineer with 13 years of experience, primarily developing software for hardware devices in the networking and telecommunications industry, working for Apple, Motorola, and a series of small startups. Much of the work I have done is in an industry which would not exist if it were not for the Justice Department's prior actions against AT&T; in fact, long enough before the MFJ, AT&T exerted enough power even outside of the marketplace that it would have been illegal to connect third-party devices (such as the ones I have worked on) to the Bell System network.

My primary concern with the proposed settlement of the Department's action against Microsoft is that it contains no provisions to preserve a competitive market for third-party networking hardware products which would be compatible with Microsoft's products. The language of the settlement refers only to application binary interfaces, between software components on a PC, and appears to have no enforceable provisions related to the network protocols and interfaces. In fact, the language related to security appears to offer blanket immunity to hide the details of any network protocols that are security-related. (note that many network protocols widely regarded as more secure than Microsoft's homegrown ones (e.g. Kerberos) have always published their interfaces, and have relied on inherently secure mechanisms rather than attempted secrecy for their security)

My fear is that by keeping network interfaces secret, and changing them from release to release, Microsoft will be able to prevent third parties from engaging in the legitimate business of creating Microsoft-compatible networking devices, or worse yet be able to pick and choose who will succeed in this market based on who they bestow their favors on, regardless of what the market wants.

Microsoft would no doubt argue that they license this information to third parties, so that the NetApps and EMCs of the industry, for instance, are able to produce Microsoft-compatible systems. However unless this information is provided on a standard, non-discriminatory basis (e.g. as part of the documentation for some level of MSDN subscription), it will not be available to either small startups or open-source developers, both of which are responsible for much of the competition and innovation in this area. By failing to require that networking interfaces - including security-related ones, which are essential to interoperability - be documented on an open and

non-discriminatory basis, the Department has missed a major opportunity to ensure open markets and competition in a significant market.

Finally, I would like to say that I fully support the objections that the Commonwealth of Massachusetts has raised with the proposed settlement, and feel that the state Attorney General would not be representing me properly if they had not objected. I would draw your attention to the following excerpt from the Commonwealth's court filing of 12/7/01: "(3) to disclose technical information so that rival handheld devices, servers and networks can interoperate with Microsoft's dominant Windows operating system", which brings up the same objection I have raised.

Thank you for your consideration,

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Peter Desnoyers (781) 457-1165 pdesnoyers@chinook.com
Chinook Communications (617) 661-1979 pjd@fred.cambridge.ma.us
100 Hayden Ave, Lexington MA 02421